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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,238	12/05/2003	Shouguan Huo	87184AEK	9195

7590 08/24/2005
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Rochester, NY 14650-2201

EXAMINER

GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,238

Applicant(s)

HUO ET AL.

Examiner

Dawn Garrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-2 4-29 is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4-7-05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This Office action is responsive to the amendment dated June 16, 2005. Claims 3, 18-20 and 26 have been amended. Claims 1-29 are pending.
2. The rejection of claim 26 under 35 USC 112, first paragraph, set forth in the Office action mailed March 24, 2005, is withdrawn due to the amendment.
3. The rejection of claims 3 and 18-20 under 35 USC 112, second paragraph, is withdrawn due to the amendment.
4. The rejection of claims 1-9, 13, 14, 21-23, 28, and 29 under 35 USC 103(a) as being unpatentable over Igarashi (US 2001/0019782) in view of Williams et al., Inorganic Chemistry, (2003), Vol. 42, pages 8609-8611 (published November 20, 2003), is withdrawn due to the Declaration under 37 CFR 1.131 signed by Shouquan Huo on June 14, 2005 and received by the Office on June 16, 2005.
5. The rejection of claims 24 and 26 under 35 USC 103(a) as being unpatentable over Igarashi (US 2001/0019782) in view of Williams et al., Inorganic Chemistry, (2003), Vol. 42, pages 8609-8611 (published November 20, 2003) in further view of Ogura et al. (US 5,283,132) is withdrawn due to the Declaration under 37 CFR 1.131. with regard to the Williams et al. reference.
6. The rejection of claims 24 and 26 under 35 USC 103(a) as being unpatentable over Igarashi (US 2001/0019782) in view of Williams et al., Inorganic Chemistry, (2003), Vol. 42, pages 8609-8611 (published November 20, 2003) in further view of Fukuoka et al. (US

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2002/0168544) is withdrawn due to the Declaration under 37 CFR 1.131. with regard to the Williams et al. reference.

7. The following is a discussion of the "X" references cited on the International Search Report filed by applicant on April 7, 2005:

a. WO 2004/039781 does not qualify as prior art.

b. US 2002/179885 (considered as part of the I.D.S. dated January 30, 2004) teaches N[^]N[^]C ligands complexed to platinum as opposed to N[^]C[^]N tridentate ligands claimed by applicant.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recitation of "complexes of two or more metal atoms each complex including separate or shared ligand groups" is considered to be new matter. The claim does not limit the type of metal atoms to the three metals of claim 1 and so it is unclear which metals are included. The specification does not provide for metals other than Ir, Pt, and Pd. In addition, in the present claim limitation, the metals could be different from one another. It is not seen where the specification provides for this. Inventive compounds 53-58 of the specification only show

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complexes with two platinum metal atoms. Furthermore, it is not seen where the specification provides for more than two metals in a complex. Also, the specification does not expressly set forth or describe the broad recitation of “separate or shared ligand groups” complexed to the multiple metal atoms.

Allowable Subject Matter

10. Claims 1, 2, and 4-29 are allowed. US 2002/179885 (considered as part of the I.D.S. dated January 30, 2004) is considered to be the closest prior art, but teaches $N^{\wedge}N^{\wedge}C$ ligands complexed to platinum as opposed to $N^{\wedge}C^{\wedge}N$ tridentate ligands as recited in the claims.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571)272-1523. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dawn Garrett
Primary Examiner
Art Unit 1774

D.G.
August 22, 2005